

In re Patent Application of
Gerald A. Pierson
Serial No. 09/938,288
Filed August 23, 2001

REMARKS

Applicant appreciates the Examiner's careful review of the application and hereby responds to the pending Office action.

The rejection of claim 43 as indefinite under 35 USC §112 has been addressed by amending its overlying independent claim, claim 42, to recite that the surface of the disk has "a major elevational portion." Accordingly, the recitation in claim 43 of "the major elevational portion" now has a proper antecedent.

Regarding the obviousness rejection of independent claim 42 in view of the Rohde *et al.* reference (US 5,882,255), Applicant believes that the structure recited, "a major elevational portion bounded by first and second pairs of spaced-apart outer side peripheries defining outer boundaries of at least portions of the disc," is not taught or suggested by the cited reference. The Examiner has additionally recognized that Rohde *et al.* "fails to disclose the exact instant arcuate sides extending between linear sides."

Accordingly, Applicant respectfully asserts that the Examiner has not established the *prima facie* obviousness of claim 42. In establishing a *prima facie* case of obviousness, the Office must establish three elements (MPEP §2143):

- 1) that the prior art contains a suggestion or motivation to combine the cited references in such a way as to achieve the claimed invention;
- 2) that one skilled in the art at the time the invention was made would have reasonably expected the claimed invention to work; and
- 3) that the combination must teach or suggest all the claim limitations, that is, that the combination produces the claimed invention.

Since the Rohde *et al.* reference does not teach or suggest either a major elevational portion nor first and second pairs of spaced-apart outer side peripheries

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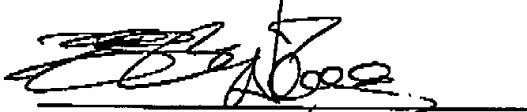
defining outer boundaries of at least portions of the disc, independent claim 42 cannot be made obvious by this reference, as at least requirements 1 and 3 above are not met.

Conclusion

For those reasons, Applicant submits that these claims are patentable and respectfully requests allowance of the application.

If further prosecution can be facilitated through a telephone conference between the Examiner and the undersigned, the Examiner is respectfully requested to telephone the undersigned.

Respectfully submitted,

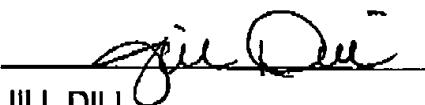


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I hereby certify that this correspondence, addressed to Commissioner for Patents, Alexandria, VA 22313, is being filed with the United States Patent and Trademark Office by facsimile telecopier to its centralized fax number at 703-872-9306 to the attention of Examiner Mathieu D. Vargot, Art Unit 1732 this 17th day of May 2005.


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